

**PROPOSED AMENDMENTS TO RULE 75,
RULES OF PROCEDURE OF THE STATE BAR**

[Proposed additions to current rule in **Bold**; Proposed deletions to current rule in ~~Strikeout~~
Additions in ***Bold and Italics*** were added by RAD at the suggestion of Governor John Dutton]

RULE 75. PRE-FILING, EARLY NEUTRAL EVALUATION CONFERENCE

- (a) If the Office of the Chief Trial Counsel and the member are unable to reach agreement on the resolution or disposition of a matter prior to the filing of a notice of disciplinary charges, an Early Neutral Evaluation Conference, conducted by a State Bar Court hearing judge, ~~shall~~ **must** be held within fifteen (15) days of the of the request of either party. ***The request must be made within twenty one (21) days of mailing to the attorney notice that disciplinary charges will be filed. If the request is not made within that twenty one (21) day period, the Early Neutral Evaluation Conference will be held only with the consent of both parties. The Early Neutral Evaluation Judge may not continue the conference or hold the conference on multiple days except with the consent of both parties.***
- (b) At the Conference, the Early Neutral Evaluation judge ~~must~~ **shall** provide the parties with an oral neutral evaluation of the alleged facts and charges and the potential for the imposition of discipline. If a resolution of the matter which requires the approval of the Court is reached by the parties at the Conference, the Office of the Chief Trial Counsel ~~must~~ **shall** document the resolution and ~~must~~ **shall** submit it to the Early Neutral Evaluation judge for approval or rejection.
- (c) In order for the Early Neutral Evaluation judge to provide a meaningful evaluation, the Office of the Chief Trial Counsel ~~must~~ **shall** provide the Early Neutral Evaluation judge with a copy of the draft notice of disciplinary charges. Each party may also provide the Early Neutral Evaluation judge with such documents and information that the party believes supports his or her position. The Early Neutral Evaluation Conference ~~is~~ ~~shall~~ be confidential and each party may designate any documents he or she provides for in camera inspection only and not to be exchanged with the opposing party. All documents provided to the Early Neutral Evaluation judge ~~must~~ **shall** be returned to the respective parties at the conclusion of the Conference.
- (d) Unless otherwise stipulated by the parties, the Early Neutral Evaluation judge ~~cannot~~ ~~shall not~~ act as the trial judge in a subsequent proceeding involving the same facts.

APPENDIX A

~~(e) The provisions of this rule shall apply to all proceedings in which the notice of disciplinary charges was not filed on or before January 29, 1999.~~